

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRUCE WOODS,

:

Petitioner, : Case No. 1:00 CV 803

-vs-

:

Judge Spiegel

ANTHONY BRIGANO, WARDEN,

:

Respondent. :

**PETITIONER'S MEMORANDUM IN RESPONSE TO
RESPONDENT'S FIRST MOTION FOR DISCOVERY**

Petitioner agrees that Respondent's first motion for discovery is well taken, subject to the following two conditions: (1) Petitioner reserves the right to object to any additional discovery requests and/or discovery motions propounded by Respondent; (2) Petitioner produces the requested documents with certain portions redacted to preserve Petitioner's attorney-client privilege and/or his attorney work-product privilege. By disclosing these case-specific documents, Petitioner's counsel do not intend to waive or erode any arguments, in this or other cases, against the disclosure of internal documents from the Office of the Ohio Public Defender (OPD), including but not limited to correspondence with clients, internal OPD e-mail correspondence, and/or any other OPD documents.

Petitioner discloses the following fifteen documents (attached as exhibits) in response to Respondent's first discovery request:

- 1) Petitioner's first letter to the Office of the Ohio Public Defender (OPD), with a copy of the envelope postmarked 2-4-98 (2 pages);
- 2) OPD's response to Petitioner's first letter, dated 2-6-98 (one page);
- 3) Petitioner's 2-11-98 response to OPD's 2-6-98 correspondence (dated by Petitioner on 2-11-98, received by OPD on 2-13-98), portions redacted to preserve privilege(s) (five pages);
- 4) An internal OPD e-mail, dated 3-15-98, from intake employee James Anadell to support staff personnel Mary Dunning and Assistant Public Defender (APD) Felice Harris, assigning Petitioner's case to APD Harris, informing APD Harris of steps taken so far regarding Petitioner's request for representation, and suggesting that APD Harris get the sentencing transcript (one page);
- 5) An internal OPD e-mail, dated 3-20-98, from APD Felice Harris to support staff personnel Debbie McCandlish, requesting a copy of Petitioner's sentencing transcript, and bearing hand-written notations by Ms. McCandlish dated 3-23-98 (one page);
- 6) A letter dated 3-23-98 from Ms. McCandlish to a court reporter requesting the transcript of Petitioner's sentencing hearing (one page);
- 7) Another copy of the internal OPD e-mail, dated 3-20-98, from APD Felice Harris to support staff personnel Debbie McCandlish – this one bears a hand-written notation by APD Harris dated 3-24-98 (one page);
- 8) An internal OPD document indicating payment to the court reporter for Petitioner's sentencing transcript by a voucher dated 4-15-98 (one page);
- 9) An internal OPD document reflecting APD Harris's resignation from her employment with OPD effective 4-18-04, portions redacted to protect APD Harris's privacy interests (one page);
- 10) An internal OPD e-mail, dated 5-5-98, from OPD paralegal Nancy DeCatur to APD Bob Lane (who was APD Harris's supervisor) regarding Ms. DeCatur's telephone contact with Petitioner's trial-level attorney Bryan Perkins, portions redacted to preserve privilege(s) (one page);
- 11) A letter dated 5-13-98 from APD Supervising Attorney Bob Lane to Petitioner, portions redacted to preserve privilege(s) (one page);

- 12) A letter from Petitioner to APD Bob Lane, which, Petitioner's counsel assume, should be dated 5-15-98, not 3-15-98 – see envelope postmarked 5-15-98 – responding to APD Bob Lane's 5-13-98 letter to Petitioner, portions redacted to preserve privilege(s) (three pages);
- 13) An internal OPD e-mail, dated 5-19-98, from intake employee James Anadell to support staff personnel Mary Dunning, copied to APD Bob Lane and APD Tom Wetterer, indicating the reassignment of Petitioner's case to APD Tom Wetterer (one page);
- 14) An internal OPD printout from the "Time Matters" computer program (used by OPD intake personnel to track case activity) which tracks certain activity in Petitioner's case starting on 2-6-98 and ending on 5-19-98 (three pages);
- 15) A letter dated 5-26-98 from APD Wetterer to Petitioner saying he will prepare and file a motion for delayed appeal for Petitioner, portions redacted to preserve privilege(s).

Undersigned counsel are preparing to adhere to the Sixth Circuit's remand Order, and will supplement this response to Respondent's discovery request if they locate any other documents responsive to Respondent's first discovery request.

Respectfully submitted,

DAVID H. BODIKER
OHIO PUBLIC DEFENDER

/s/ Gregory W. Meyers
GREGORY W. MEYERS (0014887)
Senior Assistant Public Defender
Meyersg@opd.state.oh.us
Trial Attorney for Petitioner

and

/s/ T. Kenneth Lee
T. KENNETH LEE (0065158)
Assistant State Public Defender
8 East Long St, 11th Floor
Columbus, Ohio 43215
Phone: (614) 466-5394
Fax: (614) 752-3670
leeken@opd.state.oh.us

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that the foregoing PETITIONER'S MEMORANDUM IN RESPONSE TO RESPONDENT'S FIRST MOTION FOR DISCOVERY, along with its attachments, was filed electronically with this Court on the 1st day of April, 2004. By operation of this Court's electronic filing system, notice of this filing will be sent to Respondent's counsel, who will be able to access this filing through the Court's on-line system. In addition, a copy of the foregoing, along with the exhibits, will be sent by Regular U.S. Mail, postage prepaid, to Respondent's counsel, J. Joseph Bodine, Assistant Attorney General, Corrections Litigation Section, 150 E. Gay Street, 16th Floor, Columbus, Ohio 43215, on this 1st day of April, 2004.

/s/ Gregory W. Meyers
GREGORY W. MEYERS (0014887)
COUNSEL FOR PETITIONER